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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:

Legislative Counsel
7D35 HQ

EXTENSION

NO.

DATE

19 Aug 75

25X1A
25X1A

TO: (Officer designation, room number, and building)

DATE

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1.

OGC
Attn: []

STATINTL

RECEIVED

FORWARDED

8/19/75

8/20

A

2.

3.

STATINTL

4.

5.

6.

STATINTL

7.

Legislative Counsel
7D35 Hq

8.

Attn: []

9.

10.

1:7
Bill-

11.

Looks OK to me.

12.

STATINTL

13.

14.

15.

Attached is our proposed report on a series of five bills (S. 796 - S. 800) amending the Administrative Procedure Act. S. 796 was the only bill I thought could possibly directly affect the Agency and was sent to your office for review. []'s memorandum (OGC 75-2958) indicates that this bill is unobjectionable. The other bills are more clearly directed at the administrative proceedings of regulatory agencies and therefore would not apply to the Agency. S. 800, which would abolish the defense of sovereign immunity with respect to actions in Federal courts seeking relief other than money damages raises a far-reaching issue which the Justice Department has addressed in the past and which I think we should defer to them on.

The Agency's report on this legislation has been requested by the end of this week. Please review the draft and provide me with your views and comments by this Friday.

[]
Office of Legislative Counsel

DRAFT:WPB:sk (19 Aug 75)

Dear Mr. Chairman,

This is in response to your request for our comments on S. 796, S. 797, S. 798, and S. 799, bills to amend the Administrative Procedure Act; and on S. 800, a bill to amend sections 702 and 703 of Title 5 and section 1331 of Title 28 of the United States Code with respect to procedure for judicial review of administrative agency action.

The Administrative Procedure Act establishes the principles and requirements which, in general and to varying degrees, govern administrative procedures in Federal agencies. Its provisions relate primarily to those administrative agencies which affect private rights or public interests through adjudications ^{or certain} rule-making ~~or related actions~~ ^{or related actions} The Central Intelligence Agency is not such an administrative authority. It was established by the National Security Act of 1947 to coordinate the intelligence activities of the United States; to correlate, evaluate and disseminate foreign intelligence; and to perform other functions and duties related to intelligence and affecting the national security.

The amendments to the Administrative Procedure Act proposed in S. 796, S. 797, S. 798 and S. 799 are of little or no significance to the Central Intelligence Agency and would not adversely affect its foreign intelligence functions and responsibilities. With respect to these four bills, we defer to the views of those agencies more directly affected.

S. 800 would abolish the defense of sovereign immunity with respect to actions in Federal courts seeking relief other than money damages and stating a claim against an agency officer acting in an official capacity. It would also permit a plaintiff in judicial review proceedings to name as defendant the United States, the agency or the appropriate officer and would liberalize venue requirements for such actions. Finally, the bill would eliminate the requirement that there be at least \$10,000 in controversy for Federal question jurisdiction under 28 U.S.C. 1331. On these matters, we defer to the position of the Department of Justice.